THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1425 OF 2005

Dt. 11.8.2005

Between:

Smt.A.Sujatha Devi

S.G.T.Assistant

Andhra Vidyalaya High School

Kattelamandi, Abids, Hyderabad … APPELLANT

AND

Smt.B.Shanta Kumari, W/o.V.Veeresham

S.G.T.Assistant

Andhra Vidyalaya High School

Kattelamandi, Abids, Hyderabad and others … RESPONDENTS

THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1425 OF 2005

JUDGMENT: (per the Hon'ble Smt. Justice T.Meena Kumari)

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The present Writ Appeal is filed by the appellant-fifth respondent against the Order, dated 05.07.2005, in Writ Petition No.917 of 2004 passed by a learned single Judge of this Court.

The said Writ Petition was filed by the first respondent-writ petitioner challenging the proceedings of the Regional Joint Director of School Education, A.P., Hyderabad, dated 30.12.2003 and consequently to direct the respondent-authorities to declare her as senior to the appellant-fifth respondent.

The brief facts of the case are as follows:

Originally, the appellant-fifth respondent was appointed in Vani Upper Primary School, Hyderabad on 01.07.1979, whereas the writ petitioner was appointed in Kakatiya Upper Primary School, Hyderabad on 01.07.1980 as Secondary Grade Teachers in grant-in-aid posts. As seen from the impugned order, both the writ petitioner and the appellant-fifth respondent were terminated from service on 06.06.1984 and 01.12.1984, respectively. Admittedly, both of them joined AVH School on the same day and time i.e., on 14.10.1986 afternoon. Considering the service rendered by both the writ petitioner and the appellant-fifth respondent in the former school, the Regional Joint Director of School Education, Hyderabad, came to the conclusion that the appellant-fifth respondent is senior to the writ petitioner. Hence, the Writ Petition was filed.

Respondents 1 to 3 and 5 therein have filed their counter-affidavit denying the allegations made by the writ petitioner.

As per Rule 36(iii) of the A.P. State and Subordinate Service Rules, 1996, in respect of persons covered under item (ii) of Rule 36, in case the date of commencement of probation is the same, whoever is aged shall be the senior.

The learned single Judge held that the said Rule is applicable to the case on hand. Since the date of birth of the writ petitioner is 08.09.1950 and the date of birth of the appellant-fifth respondent is 12.08.1956, the learned Judge was of the view that the writ petitioner has to be declared as senior who is elder than the appellant-fifth respondent. Aggrieved by the same, the present Writ Appeal has been preferred.

Learned counsel for the appellant has contended before us that the learned single Judge erred in taking into consideration Rule 36 of the A.P. State and Subordinate Service Rules 1996 in view of the fact that the appellant and the writ petitioner were appointed as Secondary Grade Teachers in grant-in-aid posts and they being not the Government employees, the said Rules cannot be applied. According to the learned Government Pleader, they are covered by G.O.Ms.No.1, dated 1.1.1994.

Under the circumstances, the Order of the learned single Judge is set aside and the Regional Joint Director of School Education, Hyderabad is directed to consider the matter afresh as per the guidelines issued under G.O.Ms.No.1 dated 1.1.1994 within a period of three months from the date of receipt of a copy of the Order, in accordance with law.

With the above direction, the Writ Appeal is disposed of.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 11.08.2005

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